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BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Application Number: 09/892,706

Filing Date: June 27, 2001

Appellant(s): BAHREN ET AL.

Patrick J. O'Shea
For Appellant

EXAMINER'S ANSWER

Art Unit: 2152

This is in response to the appeal brief filed 6/01/2007 appealing from the Office action mailed 01/08/2007.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

No amendment after final has been filed.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

6,246,688 Angwin et al 1-1999

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claims 6,8,12,14-18,23-25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Applicant admitted Prior Art (AAPA) and Angwin (US 6,246,688).

As regarding claims 6,8,12,14-18,23-25, applicant admitted that a first network such as MOST, and network units, such as CD, DVD, etc, were prior art (see specification, page. 1, paragraph 1-2). The AAPA does not include a proxy for communication with another units, and a first network units, which functioned as a gateway to second network, e.g., Internet, or the like, and Application Program Interface (API) for communication with the proxy in the other network units. However, Since, the instant disclosure does not explicitly define the term "proxy", "structural of the proxy" or "process of the proxy", therefore, term "proxy" could be read into any

type of interface, which enable a network unit to communicate with an interfaces of another network units. Since the MOST is known and since the units in the Most readily communicated to each other, i.e., network together, the proxy, therefore, apparently, is an inherent feature in the MOST.

Thus, the only issue that was left off from AAPA is a device that functions as a gateway to an external network, e.g., telephone.

However, in the same field of endeavor, Angwin teaches a system that using cellular phone as a gateway for an automotive network (title of the patent). Angwin is motivated by cost and complexity of installing radio transmission, the needed of controlling hi-technology equipments, which are widely utilized in vehicles, an emergency situations with may required to access the vehicle from outside, and last but not least, a readiness of telephone device, at the time (Col. 1, lines 25-65). Angwin teaches an inventive concept of using a telephone as a gateway for the devices in a network of a vehicle. Angwin further suggests, at the time of his invention was made, the phone that built in network and application stacks gad readily existed in the art (Col. 1, lines 53-65). Thus, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to take advantage of an inventive concept suggested by Angwin, by combining the existing technology, i.e., a phone with IP and API stacks, with another existing network technology, such as the MOST, because it would enhance a capability of the devices in the existing network by enabling them to access external network, such as, Internet, with a minimum cost and complexity.

(10) Response to Argument

In response to applicant's argument on the rejection of claims 6,18,25 under U.S.C. 112 first paragraph, the argument have been fully considered and are persuasive, therefore the rejection of claims 6,18,25 under 112 first paragraph is withdrawn.

In response to appellant's argument that "the term proxy is not correctly interpreted by the examiner, therefore it is not inherent in MOST network".

Examiner's claims' interpretation is under guideline, provided in the MPEP, "During patent examination, the pending claims must be "given *>their broadest reasonable interpretation consistent with the specification." > In re Hyatt, 211 F.3d 1367, 1372, 54 USPQ2d1664, 1667 (Fed. Cir. 2000). Applicant always has the opportunity to amend the claims during prosecution, and broad interpretation by the examiner reduces the possibility that the claim, once issued, will be interpreted more broadly than is justified. In re Prater, 415 F.2d 1393, 1404-05,162 USPQ 541,550-51 (CCPA 1969). "The words of a claim must be given their "plain meaning" unless they are defined in the specification. While the claims of issued patents are interpreted in light of the specification, prosecution history, prior art and other claims, this is not the mode of claim interpretation to be applied during examination. During examination, the claims must be interpreted as broadly as their terms reasonably allow. > In re American Academy of Science Tech Center, __ F.3d __,2004 WL 1067528 (Fed. Cir. May 13,

Art Unit: 2152

2004); *In re Zletz*, 893 F.2d 319, 321, 13 USPQ2d 1320, 1322 (Fed. Cir. 1989); *Chef America, Inc. v. Lamb-Weston, Inc.*, 358 F.3d 1371, 1372, 69 USPQ2d 1857 (Fed. Cir. 2004) (Ordinary, simple English words whose meaning is clear and unquestionable, absent any indication that their use in a particular context changes their meaning, are construed to mean exactly what they say." (Emphasis added). "It is only when the specification provides definitions for terms appearing in the claims that the specification can be used in interpreting claim language. *In re Vogel*, 422 F.2d 438, 441, 164 USPQ 619, 622 (CCPA 1970). >See also *Superguide Corp. v. DirecTVEnterprises, Inc.*, 358 F.3d 870, 875, 69 USPQ2d 1865, 1868 (Fed. Cir. 2004)".

Applicant is entitled to be his own lexicographer by clearly setting forth a definition of the term in his disclosure. After thoroughly consider applicant's full disclosure, Examiner found no evidence that suggests examiner must read the term "proxy" as applicant wished (see the argument section pages 10-11). Since throughout four page of specification there is no slight suggestion that the MOST networks require or need any firewall or administrative control. Since context of the disclosure are to provide controlling devices in the MOST network via radio wave from an external network device. Further, applicant described the MOST network as a network of appliance, such as Radio and TV receiver, CDROM, DVD CD changer cassette player, etc, (see spec Page 12). The aforementioned devices do not require any security feature of firewall, since their content is unchangeable and for entertainment purposes only, rather they, perhaps need and computer interface or computerized control capability. In other words, applicant attempted to provide controlling capability of the

MOST networks' devices from external network via radio transmission using a first unit as a gateway. Applicant then installing an application program interface (API) in the first unit, i.e., cellular phone or the like, for receiving control signal from a device is an external network, e.g., Internet, using wireless communication capability, since the MOST network is described as a network in a motor vehicle. To control devices in a motor vehicle from external network, some kind of interface is required to interface with the API of the first device. Clearly, there is not security or access control feature are involved. Applicant should noted that applicant is required to provide a full, clear and concise disclosure to enable one ordinary skill in the art to make and use without undue experimentation. By leaving off specific detail, applicant open door for an ordinary skill in the art, including examiner, to making broad interpretation. Attempting to further narrowing scope of the claim, by using remark is inappropriate and a clear indication of concealment, hindsight reasoning and a matter of convenience argument. If applicant wished to use the proxy other than allowing the API to interface with the device in the MOST network, such as to include security, caching or access control features, why not include such intention in the original specification.

Applicant's use of the term proxy is not in accordance with the customary definition that is being defined in the Microsoft Press Dictionary (n. A firewall component that manages Internet traffic to and from a local area network (LAN) and can provide other features, such as document caching and access control. A proxy server can improve performance by supplying frequently requested data, such as a popular Web page, and can filter and discard requests that the owner does not consider

Art Unit: 2152

appropriate, such as requests for unauthorized access to proprietary files. See also firewall.") Figure 1 of the disclosure merely illustrates using the proxy as an interface in order for communication to go through. Since in context of the specification as aforesaid, the so-called "proxy" neither is the one to manage Internet traffic, the API and the first device is the unit that manages traffic (see Spec page 13 and 15). Throughout the specification does not suggest any caching content related nor required access control to each particular unit. Beside if the access control were needed, should it be more appropriated to install this feature at the first unit, which equipped with the API. Therefore, examiner convinces that the term proxy, in context of the claim and the original specification, does not intend to be used as customary meaning of proxy, or acting as a firewall.

Since the term proxy are neither being explicitly defined by the applicant nor being use correctly in accordance to its customary meaning as explained above. Therefore, examiner applied a general meaning of the term proxy, which the closest interpretation given in the Microsoft Bookshelf Reference is "A person authorized to act for another; an agent or a substitute." or online dictionary.com is "a person authorize to act as the deputy or substitute for another, agent" or American Heritage College Dictionary 4th edition is "a person authorized to act for another, to act in place of another" in which when read in context of the claim and in combination with the following phrase "proxy computer," means a computer software or hardware the act as agent of another. Since the MOST network devices using proxy to communicate with the API, in the sense the proxy in this instance has functionality equivalent to an

interface, which conventionally has been used by a device to communicate with another device. Thus, Examiner's applying the term proxy, as interface is proper.

In response to appellant's argument that the combination of Applicant Admitted Prior Art and Angwin does not teach, "proxy computer installed in each of the plurality of network units other than said first network unit", again examiner given the claims their broadest reasonable interpretation consistent with the specification. Examiner found no evidence that suggests examiner must read the above limitation as applicant wished (see argument page 12, "first network unit does not include a proxy computer and only the remaining network units include a proxy"). The above limitation does not excluding the first unit from having a proxy, further more, the specification (four pages) does not describe that first network unit does not include a proxy computer and only the remaining network units include a proxy as applicant wished. Therefore the above limitation can be reasonable interpret as " each of the plurality of units in the MOST having a proxy". As Applicant Admitted Prior Art discloses the MOST network having plurality of units communicates with each other, in the sense the proxy in this instance has functionality equivalent to an interface, which conventionally has been used by a device to communicate with another device.

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

Examiner

Duyen Doan

Conferees:

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